

STATE OF MICHIGAN  
MACOMB COUNTY CIRCUIT COURT

SUZANNE MARIE FELT and  
DOUGLAS FELT,

Plaintiffs,

vs.

Case No. 2005-0751-NI

GREEN MEADOWS LAWN CARE, INC.,  
a Michigan corporation; and  
CHARLES RICHARD REINER, JR.,

Defendants.

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OPINION AND ORDER

Defendants Green Meadows Lawn Care, Inc. and Charles Richard Reiner, Jr. move for summary disposition under MCR 2.116(C)(10).

I. BACKGROUND

Plaintiffs Suzanne Marie Felt and Douglas Felt filed this action on February 24, 2005 asserting they are married. At approximately 2:15 p.m. on June 6, 2002, plaintiff Suzanne Felt ("plaintiff") was lawfully stopped on northbound Hayes near Canal (Clinton Township). At the same time, defendant Reiner was also driving a vehicle owned by defendant Green Meadows Lawn Care northbound on Hayes. Plaintiff avers defendant Reiner failed to stop and crashed into the rear of a vehicle driven by Jonathan Frederick Martin, propelling Martin's vehicle into plaintiff's car that then struck the vehicle in front of her.

Accordingly, plaintiff's complaint alleges: I. Negligence and II. Loss of Consortium.

On August 3, 2005, defendants Green Meadows Lawn Care and Reiner filed a notice of



nonparty fault identifying Martin as being wholly or partially at fault for plaintiff's injuries.

Defendants Green Meadows Lawn Care and Reiner now move for summary disposition.

## II. STANDARD OF REVIEW

A motion for summary disposition under MCR 2.116(C)(10) tests the factual support for a claim. The reviewing court must consider the pleadings, affidavits, depositions, admissions and other documentary evidence available to it in the light most favorable to the nonmoving party. *Village of Dimondale v Grable*, 240 Mich App 553, 566; 618 NW2d 23 (2000). The nonmoving party must proffer evidence establishing a material issue of disputed fact exists for trial to avoid summary disposition. *Id.*

## III. ANALYSIS

MCL 500.3135 provides in pertinent part:

(1) A person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement.

(2) For a cause of action for damages pursuant to subsection (1) filed on or after July 26, 1996, all of the following apply:

(a) The issues of whether an injured person has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(i) There is no factual dispute concerning the nature and extent of the person's injuries.

(ii) There is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination as to whether the person has suffered a serious impairment of body function or permanent serious disfigurement. \* \* \*

(7) As used in this section, "serious impairment of body function" means an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life.

In the instant matter, any dispute concerning the nature and extent of plaintiff's injuries is not material to determining whether she suffered a serious impairment of body function.

In *Kreiner v Fischer*, 471 Mich 109, 130-131; 683 NW2d 611 (2004), our Supreme Court

stated:

Determining whether the impairment affects a plaintiff's "general ability" to lead his normal life requires considering whether the plaintiff is "generally able" to lead his normal life. If he is generally able to do so, then his general ability to lead his normal life has not been affected by the impairment.

*Random House Webster's College Dictionary* (1991) defines "general" as "considering or dealing with broad, universal, or important aspects." "In general" is defined as "with respect to the entirety; as a whole." *Id.* "Generally" is defined as "with respect to the larger part; for the most part." *Id.* *Webster's New International Dictionary* defines "general" as "the whole; the total; that which comprehends or relates to all, or the chief part; a general proposition, fact, principle, etc.;—opposed to particular; that is, opposed to special." Accordingly, determining whether a plaintiff is "generally able" to lead his normal life requires considering whether the plaintiff is, "for the most part" able to lead his normal life.

In addition, to "lead" one's normal life contemplates more than a minor interruption in life. To "lead" means, among other things, "to conduct or bring in a particular course." [*Random House Webster's Unabridged Dictionary* (2001)]. Given this meaning, the objectively manifested impairment of an important body function must affect the *course* of a person's life. Accordingly, the effect of the impairment on the course of a plaintiff's entire normal life must be considered. Although some aspects of a plaintiff's entire normal life may be interrupted by the impairment, if, despite those impingements, the course or trajectory of the plaintiff's normal life has not been affected, then the plaintiff's "general ability" to lead his normal life has not been affected and he does not meet the "serious impairment of body function" threshold. [Footnote omitted, emphasis original.]

The *Kreiner* Court explained:

In determining whether the course of plaintiff's normal life has been affected, a court should engage in a multifaceted inquiry, comparing the plaintiff's life before and after the accident as well as the significance of any affected aspects on the course of the plaintiff's overall life. Once this is identified, the court must engage in an objective analysis regarding whether any difference between plaintiff's pre- and post-accident lifestyle has actually affected the plaintiff's "general ability" to conduct the course of his life. Merely "*any* affect" on the plaintiff's life is insufficient because a de minimus effect would not, as objectively viewed, affect the plaintiff's "general ability" to lead his life. [Footnote omitted, emphasis original.]

The following nonexhaustive list of objective factors may be of assistance in evaluating whether the plaintiff's "general ability" to conduct the course of his normal life has been affected: (a) the nature and extent of the impairment, (b) the type and length of treatment required, (c) the duration of the impairment, (d) the extent of any residual impairment[ footnote: Self-imposed restrictions, as opposed to physician-imposed restrictions, based on real or perceived pain do not establish this

point], and (e) the prognosis for eventual recovery. [Footnote omitted.] This list of factors is not meant to be exclusive nor are any of the individual factors meant to be dispositive by themselves. \* \* \* Instead, in order to determine whether one has suffered a "serious impairment of body function," the totality of the circumstances must be considered, and the ultimate question that must be answered is whether the impairment "affects the person's general ability to conduct the course of his or her normal life." [Footnote omitted.]

*Id.* at 132-134.

In the instant matter, the July 16, 2002 medical records reflect a notation under "Exam" for bilateral trapezius spasms. Hence, plaintiff apparently suffered an objectively manifested impairment of an important body function.

Plaintiff only missed two days from work because of the accident. Upon her return to work, she was able to perform her duties with minimal accommodations (more computer work and filing, less telephone work—although this latter problem was apparently resolved by the use of a headset). She continues to be employed and now works in a cafeteria, preparing food and cleaning.

While plaintiff needed assistance with some heavy household chores (vacuuming, making beds, laundry, child care, window washing and washing floors) for several weeks after the accident, she was not disabled from dusting, cooking, dishwashing, ironing, changing linens, snow shoveling, grass cutting, grocery shopping, taking out the garbage, driving, running errands, home repairs, caring for herself or other activities of daily living. She is not under any continuing restrictions.

Plaintiff testified she only participated in swim aerobics once a week prior to the accident. She explained that she tried to go back after the accident but could not keep up like she had previously been able. Hence, the record does not suggest plaintiff is totally precluded from engaging in swim aerobics. There is also no apparent reason why plaintiff can not engage in

water aerobics rather than swim aerobics or other forms of exercise. Moreover, plaintiff stated she was only "limited" in playing with her son; she is not prevented from interacting with him.

Plaintiff said she regularly engages in gardening and family vacations. She has always been able to drive and sleep albeit with some occasional problem.

In short, plaintiff is essentially able to do almost everything she did previously although with some difficulty. While she may have had to modify some routines and has self-imposed some restrictions, the minimal limitations suggest a reduced capacity rather than any disability that has significantly affected the general course or trajectory of her life.

Therefore, plaintiff has failed to establish she suffered a serious impairment of body function because of the June 6, 2002 accident.

#### IV. CONCLUSION

For the reasons set forth above, defendants Green Meadows Lawn Care, Inc. and Charles Richard Reiner, Jr.'s motion for summary disposition is GRANTED under MCR 2.116(C)(10).

Accordingly, plaintiffs Suzanne Marie Felt and Douglas Felt's complaint is DISMISSED, with prejudice. MCR 2.116(I)(1).

This Opinion and Order resolves the last pending claim in this matter and closes the case. MCR 2.602(A)(3).

IT IS SO ORDERED.


Dated: May 18, 2006

DONALD G. MILLER  
Circuit Court Judge

CC: Tamera L. Green  
Patricia A. Maceroni

DONALD G. MILLER  
CIRCUIT JUDGE

MAY 18 2006

A TRUE COPY  
GARMELLA SABAUGH, COUNTY CLERK  
BY:  Court Clerk